

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By **CHAIRMAN JOAN ANDERSEN**, on March 12, 2003 at 3:00 P.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Joan Andersen, Chairman (R)
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)
Rep. Larry Lehman, Vice Chairman (R)
Rep. Norman Ballantyne (D)
Rep. Nancy Fritz (D)
Rep. Carol Gibson (D)
Rep. Verdell Jackson (R)
Rep. Bob Lake (R)
Rep. Clarice Schrupf (R)

Members Excused: Rep. Norma Bixby (D)
Rep. Gary Branae (D)
Rep. Bob Lawson (R)

Members Absent: Rep. Joe McKenney (R)
Rep. Pat Wagman (R)

Staff Present: Eddy McClure, Legislative Branch
Mari Prewett, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp in these minutes appears at the end of the content it refers to.

Committee Business Summary:

Hearing & Date Posted: SB183,, 3/10/2003; SB 205,
3/10/2003; SJ 20, 3/10/2003
Executive Action: SB 205, TABLED; SJ 20 BE CONCURRED
IN AS AMENDED (13-1); SB 183 BE
CONCURRED IN (9-5); SB 202, BE
CONCURRED IN (13-1)

HEARING ON SB 205

Sponsor: SEN. JOHN COBB, SD 25, Augusta

Opening Statement by Sponsor:

SEN. COBB explained to the Committee that he had been working with the Montana Education Association and Montana School Boards Association prior to the hearing. He went on to say that they had been working toward putting a resolution before the High School Association to try and rectify the problem addressed by SB 205. **SEN. COBB** stated that he would like the Committee to table the bill, but he did want to have it on the record.

SEN. COBB distributed two handouts, attached as Exhibits 1 and 2 respectively. Exhibit 1 was a copy of the Age Rule under the Individuals With Disabilities Education Act (IDEA). Exhibit 2 was a copy of an e-mail letter he had received from Brittany Hallett and the reason he had requested SB 205 be drafted.

EXHIBIT (edh52a01)

EXHIBIT (edh52a02)

SEN. COBB stated that what the bill would do was to prohibit the Board of Trustees of a school district from joining an organization unless the organization allowed the same participation and extracurricular activities for students as it would for individuals with disabilities. He continued that the student would have to be attending school full-time and that it had nothing to do with home schooling. **SEN. COBB** referred to Exhibit 1 and discussed the rule which prohibits students that reach the age of 19 before August 31 of a given year from participating in extracurricular activities. He went on to say that students qualified for services under IDEA could apply for a waiver as long as they met the listed qualifications. **SEN. COBB** explained that all SB 205 was trying to do was allow all students the ability to apply for a waiver of the rule.

REPS. MCKENNEY and WAGMAN arrived at the hearing.

Proponents' Testimony: None

Opponents' Testimony:

Bob Vogel, Montana School Boards Association (MSBA), stated that SB 205 would set a bad precedent by having the legislature become involved in an issue of local control. He went on to say they felt it was an issue that should be dealt with by the High School Association and its membership. He remarked that MSBA would do

everything they could to see that a resolution to change the rule and allow application for a waiver was presented to the High School Association.

Bill Sprinkle, Assistant Executive Director, Montana High School Association, spoke in opposition to SB 205. **Mr. Sprinkle** provided the Committee with a copy of his written testimony, along with supporting documents, attached as Exhibit 3.

EXHIBIT (edh52a03)

REP. LAWSON arrived at the hearing.

Kathy Bramer, Superintendent of Public Instruction's Appointee to the Montana High School Association's Executive Board, reiterated the proposal SEN. COBB and Bob Vogel had made regarding presenting a resolution to the Board. She went on to say that she would personally make the motion to the Board to put the resolution before the membership at the meeting in January for debate. She then explained how the proposal would be made and how it would be decided. She stated that she could not guarantee that the Board would adopt the resolution.

Informational Testimony: None

Questions from Committee Members and Responses:

REP. GALVIN-HALCRO asked Mr. Sprinkle if he was willing to consider the resolution being proposed. **Mr. Sprinkle** indicated that he would.

REP. GALVIN-HALCRO asked Mr. Sprinkle how they made the age rules fit and work. **Mr. Sprinkle** responded that the rules applied to all schools, Class A and Class C, alike.

REP. LEHMAN asked SEN. COBB when the bill had been drafted. **SEN. COBB** responded that the bill was drafted sometime in November or December.

REP. LEHMAN asked SEN. COBB why the matter had not been addressed at the January meeting of the Montana High School Association. **SEN. COBB** replied that he could not answer the question. The reason the bill was introduced was because everyone felt that nothing would change.

CHAIRMAN ANDERSEN asked Bob Vogel how often a 19-year-old student athlete was denied the opportunity to participate. **Mr. Vogel** deferred to Bill Sprinkle for an answer. **Mr. Sprinkle** stated that it was hard to answer as there were not a lot of them.

Closing by Sponsor:

SEN. COBB reiterated that what the bill was trying to do was implement the same rules as were used under special education and allow all students the opportunity to apply for a waiver. He continued that those students applying for a waiver would have to meet the same guidelines used under special education. He went on to say that it was a matter of fairness.

REP. BRANAE arrived at the hearing.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 28.8}

HEARING ON SJ 20

Sponsor: **SEN. DALE MAHLUM, SD 35, Missoula**

Opening Statement by Sponsor:

SEN. MAHLUM began by saying that SJ 20 was a unique resolution. He went on to say that SJ 20 would encourage high schools to develop a course of curriculum that would teach students how to be an adult when they got to that age. He continued that students need to know about relationships, marriages, interpersonal and workplace education, mediation and how to manage their finances. **SEN. MAHLUM** pointed out that all the legislation was seeking was for the Governor and the Legislature to ask the Office of Public Instruction and the School Boards to think about putting the curriculum into place if it did not already exist. **SEN. MAHLUM** distributed a letter from Pete Bruno, Chair of the Governor's Council on Families and read it into the record. The letter is attached as Exhibit 4.

EXHIBIT (edh52a04)

Proponents' Testimony:

Bob Vogel, Montana School Boards Association, spoke in support of SJ 20. He pointed out that it was not a mandate, it was an encouragement to school boards to implement such a curriculum. He continued that it was important to consider and hoped they would pass SJ 20.

Cort Jensen, private citizen, stated that he supported the joint resolution because it had real value. He continued that he felt people that had gone through life skills classes did better in life. **Mr. Jensen** urged the Committee to support SJ 20.

Opponents' Testimony: None

Informational Testimony:

Nan Lefebvre, Department of Public Health and Human Services, stated that they supported SJ 20 . She reiterated what Mr. Vogel and SEN. MAHLUM had already said, that the resolution simply encouraged, but did not mandate anything. She continued that SJ 20 respected the rights of local school districts to make their own decisions.

Questions from Committee Members and Responses:

REP. JACKSON asked SEN. MAHLUM if there was any discussion in the development of the resolution that would include the teaching of economics? **SEN. MAHLUM** stated that there had not been. He went on to explain the reason.

REP. JACKSON asked SEN. MAHLUM if they should change the language of the resolution to say that the course would be taught in high school and not specifically the senior year. **SEN. MAHLUM** stated that he had already considered changing the wording from "senior year" to "junior or senior year." He went on to say that the idea had been discussed. It had been decided that the junior and senior years were the most advantageous for the program.

REP. JACKSON asked SEN. MAHLUM what was included in mediation classes. **SEN. MAHLUM** deferred to Nan Lefebvre. **Ms. Lefebvre** stated that mediation, in this case, meant discussing and working out an issue or coming to a compromise in the work place, a family relationship or wherever it might apply.

Closing by Sponsor:

SEN. MAHLUM stated that it was an interesting bill. He continued that he felt SJ 20 would help promote family values and provide more and better adjusted adults in the future.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 20.7}

EXECUTIVE ACTION ON SB 205

Motion/Vote: **REP. GIBSON** moved that SB 205 BE TABLED. Motion carried 13-1 by voice vote with **REP. JACKSON** voting no and **REPS. BIXBY** and **WAGMAN** voting by proxy.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 1.4}

HEARING ON SB 183

Sponsor: SEN. JOHN BOHLINGER, SD 7, Billings

Opening Statement by Sponsor:

SEN. BOHLINGER stated that SB 183 was a bill that would benefit any person exonerated from a crime by postconviction DNA testing. He continued, saying that SB 183 would provide that a person convicted of a felony offense, had been incarcerated in the state prison for any period of time, and whose judgment had been overturned by a court because of post DNA forensic testing, be entitled to receive an education at the expense of the State.

SEN. BOHLINGER referred to the bill and indicated where the information could be found. He pointed out that the educational aid would be available for a ten-year period and would pay for five years or less of education, depending on the course taken.

SEN. BOHLINGER explained that the bill should appeal to everyone's sense of justice and that it provided small but meaningful compensation.

Proponents' Testimony:

Scott Crichton, Executive Director, American Civil Liberties

Union of Montana, stated that he was pleased to support SB 183.

He went on to say that they felt it was a great idea and a way to address a great wrong that has been committed.

Ali Bovington, Assistant Attorney General, stated that she was appearing on behalf of the Department of Justice in support of SB 183. She went on to say that they supported the concept of the bill and felt that it was a reasonable way to assist individuals that had been convicted of a crime and later exonerated by DNA evidence. She asked for their favorable consideration of the bill.

Will Hammerquist, Representing the Students of the Montana State University in Bozeman, expressed support for the bill. He stated that he was also testifying on behalf of Sarah Cobler the Student Lobbyist from the University of Montana, Missoula. **Mr.**

Hammerquist remarked that as students they felt it was a fair and just proposal.

Lani Candelora, Montana Catholic Conference, declared their support for SB 183. She explained that they felt this was one of the best social justice bills presented because it combined justice, fairness and equity.

Betty Whiting, Montana Association of Churches, urged the Committee to support SB 183. She stated that SB 183 was restorative justice and hoped that this type of legislation would help heal hard feelings.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. WAGMAN asked SEN. BOHLINGER the reason for not including other evidence besides DNA testing. **SEN. BOHLINGER** replied that DNA testing was the best technology available for establishing guilt or innocence. He continued that other evidence may not be as reliable.

REP. WAGMAN asked SEN. BOHLINGER how the bill would affect a person when it was determined by evidence, other than DNA testing, obtained from another state that a person was not guilty of the crime he had been convicted of. **SEN. BOHLINGER** replied that he had no expertise in criminal matters and that his concern was for doing the right thing.

REP. MCKENNEY asked Scott Crichton if an individual that was wrongly convicted would have other financial recourse, such as restitution or settlement due to a lawsuit. **SEN. BOHLINGER** stated he was not knowledgeable in that area and deferred to Ms. Bovingdon for an answer. **Ms. Bovingdon** stated that a person would have options, such as filing a lawsuit.

Closing by Sponsor:

SEN. BOHLINGER stated that there was a need for justice and a need to correct mistakes that had been made. He went on to say that he felt that providing an education for someone would be more beneficial in the long run than a cash settlement. He asked the Committee to move the bill forward. He concluded stating that there would be a fiscal impact, but it would be a small price to pay to right a terrible wrong.

{Tape: 2; Side: A; Approx. Time Counter: 1.4 - 29.9}

EXECUTIVE ACTION ON SJ 20

Motion: **REP. GALVIN-HALCRO** moved that SJ 20 BE CONCURRED IN.

Discussion:

REP. JACKSON stated he felt it would be appropriate to change "senior year" to "grades 9 -12" as it would provide flexibility.

REP. GIBSON commented that she felt that the older students would be better suited for this type of instruction.

There was a general discussion on how to write the amendment for the change.

Motion: **REP. JACKSON** moved that SJ 20 BE AMENDED.

REP. JACKSON'S amendment on Page 2, Line 3 would change the word "in" to "by" making the line read, "...by their senior year..."

Discussion:

REP. BRANAE asked if the wording would exclude the senior year.

Substitute Motion: **REP. BRANAE** made a substitute motion that SJ 20 BE AMENDED.

REP. BRANAE'S amendment would add the words "the end of" and would read, "...by the end of their senior year..."

Discussion:

REP. LEHMAN stated he felt that it was more appropriate for the class to be taught to the juniors and seniors as they were more mature.

CHAIRMAN ANDERSEN reminded the Committee that SJ 20 was a resolution and was not mandating the schools to teach the course.

REP. JACKSON withdrew his amendment.

Vote: Motion that SJ 20 BE AMENDED carried 14-0 by voice vote with **REP. BIXBY** voting aye by proxy.

Motion: **REP. GALVIN-HALCRO** moved that SJ 20 BE CONCURRED IN AS AMENDED.

Discussion:

REP. WAGMAN stated that he would reluctantly vote against SJ 20 because he felt they were asking the schools to do too much by adding more curriculum.

REP. BALLANTYNE remarked that he felt there were several schools already teaching courses such as recommended. He went on to say that all SJ 20 did was encourage other schools to adopt consumer education and relationship classes.

Vote: Motion that SJ 20 BE CONCURRED IN AS AMENDED carried 13-1 by roll call vote with **REP. WAGMAN** voting no and **REP. BIXBY** voting aye by proxy.

REP. LAWSON will carry SJ 20 on the floor of the House.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 10.3}

EXECUTIVE ACTION ON SB 183

Motion: **REP. GALVIN-HALCRO** moved that SB 183 BE CONCURRED IN.

Discussion:

REP. LAKE stated that he had a problem with the language "any period of time" on Page 1, Line 14. He remarked that he was concerned the bill would be expanded to other crimes. He explained that he felt there should be a set period of time that the person was incarcerated before he would be eligible for State aid. **REP. LAKE** went on to say that he felt if there was any other type of settlement the education aid should be incorporated into that settlement.

REP. BALLANTYNE expressed concern as to whether or not there was any accountability for the program.

REP. GALVIN-HALCRO explained that the program was only for individuals whose conviction had been overturned by a court based on the results of forensic DNA testing. She continued that there was accountability in the bill. She referred to Page 2, Lines 2-7 which state the time frame for obtaining aid under SB 183.

REP. MCKENNEY informed the Committee that he would be voting no on SB 183. He stated that he felt it was the result of emotions running high and trying to right a wrong.

REP. LEHMAN expressed his concerns and stated that he would vote no on the bill.

REP. GIBSON stated that she would rather help someone get an education than have them sue the State.

REP. FRITZ left the hearing.

REP. BRANAE stated he hoped they would not talk simply about the money. He went on to say that an education received by a person as a result of the bill could help make them a better person and a contributing member of society.

Vote: Motion that SB 183 BE CONCURRED IN carried 9-5 by roll call vote with REPS. LEHMAN, MCKENNEY, LAKE, BALLANTYNE and WAGMAN voting no and REPS. FRITZ and BIXBY voting by proxy.

REP. GALVIN-HALCRO will carry SB 183 on the floor of the House.

{Tape: 2; Side: B; Approx. Time Counter: 10.3 - 22.8}

EXECUTIVE ACTION ON SB 202

Motion/Vote: REP. BALLANTYNE moved that SB 202 BE CONCURRED IN. Motion carried 13-1 by voice vote with REP. LAKE voting no and REPS. BIXBY and FRITZ voting by proxy.

REP. GIBSON will carry SB 202 on the floor of the House.

{Tape: 2; Side: B; Approx. Time Counter: 22.8 - 24.8}

ADJOURNMENT

Adjournment: 4:45 P.M.

REP. JOAN ANDERSEN, Chairman

MARI PREWETT, Secretary

JA/MP

EXHIBIT (edh52aad)